

1 **BEFORE THE ARIZONA REGULATORY BOARD**
2 **OF PHYSICIAN ASSISTANTS**

3 In the Matter of

4 **RICK M. OLESINSKI, P.A.**

5 Holder of License No. 2523
6 For the Performance of Healthcare Tasks
7 In the State of Arizona

Case No. PA-09-0015A

**ORDER FOR LETTER OF REPRIMAND
AND CONSENT TO SAME**

8 Rick M. Olesinski, P.A. ("Respondent") elects to permanently waive any right to a
9 hearing and appeal with respect to this Order for Letter of Reprimand; admits the
10 jurisdiction of the Arizona Regulatory Board of Physician Assistants ("Board"); and
11 consents to the entry of this Order by the Board.

12 **FINDINGS OF FACT**

13 1. The Board is the duly constituted authority for the regulation and control of
14 physician assistants in the State of Arizona.

15 2. Respondent is the holder of license number 2523 for the performance of
16 health care tasks in the State of Arizona.

17 3. The Board initiated case number PA-09-0031A after receiving a complaint
18 alleging that Respondent had engaged in a sexual relationship with a current patient
19 ("CR").

20 4. Respondent was an employee at the clinic where CR was a patient. CR's
21 last office visit was December 15, 2008. On that date, the treating physician noted
22 possible need to repeat viscosupplementation injections depending on CR's clinical
23 presentation. On December 19, 2008, Respondent met CR while hiking, who told him she
24 had been discharged from the clinic. Within six months of that last visit, Respondent, not
25 realizing that a six month waiting period from the last medical consultation is required,

1 began a sexual relationship with CR. According to Respondent he and CR remain in a
2 relationship.

3 5. On March 31, 2009, during an investigational interview with Board Staff,
4 Respondent admitted that he obtained CR's information from her chart to confirm
5 discharge from the clinic and that he began a sexual relationship with her within six
6 months of her last medical consultation.

7 6. Additionally, during the Board's investigation, Board Staff noted that
8 Respondent did not meet with his supervising physician on a weekly basis for review of
9 patient management. During the investigational interview, Respondent admitted that he
10 did not meet on a weekly basis with his supervising physician for review of patient charts
11 or management but stated that he was closely supervised on a daily basis by other
12 physicians at the clinic.

13 CONCLUSIONS OF LAW

14 1. The Board possesses jurisdiction over the subject matter hereof and over
15 Respondent.

16 2. The conduct and circumstances described above constitute unprofessional
17 conduct pursuant to A.R.S. § 32-2501(21)(a) ("violation of any federal or state law or rule
18 that applies to the performance of health care tasks as a physician assistant. Conviction in
19 any court of competent jurisdiction is conclusive evidence of a violation."). The
20 corresponding act of unprofessional conduct is in A.R.S. § 32-2531(D) ("[a] physician
21 assistant shall meet in person with the supervising physician at least once each week to
22 discuss patient management. If the supervising physician is unavailable due to vacation,
23 illness or continuing education programs, a physician assistant may meet with the
24 supervising physician's agent. If the supervising physician is unavailable for any other
25 reason, the fulfillment of this responsibility by the supervising physician's agent is subject

1 to board approval."). The conduct and circumstances described above also constitute
2 unprofessional conduct pursuant to A.R.S. § 32-2501(21)(ii) ("[e]ngaging in sexual conduct
3 with a current patient or with a former patient within six months after the last medical
4 consultation unless the patient was the licensee's spouse at the time of the contact or,
5 immediately preceding the professional relationship, was in a dating or engagement
6 relationship with the licensee. For purposes of this subdivision, "sexual conduct" includes:
7 i. Engaging in or soliciting sexual relationships, whether consensual or nonconsensual. ii.
8 Making sexual advances, requesting sexual favors or engaging in other verbal conduct or
9 physical contact of a sexual nature with a patient. iii. Intentionally viewing a completely or
10 partially disrobed patient in the course of treatment if the viewing is not related to patient
11 diagnosis or treatment under current practice standards.").

12 **ORDER**

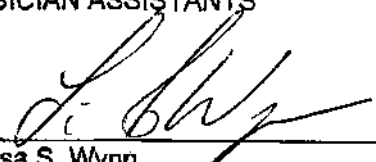
13 IT IS HEREBY ORDERED THAT Respondent is issued a Letter of Reprimand.

14
15 DATED AND EFFECTIVE this 24TH day of FEBRUARY, 2010.



ARIZONA REGULATORY BOARD OF
PHYSICIAN ASSISTANTS

By



Lisa S. Wynn
Executive Director

22 **CONSENT TO ENTRY OF ORDER**

23 1. Respondent has read and understands this Consent Agreement and the
24 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent
25 acknowledges he has the right to consult with legal counsel regarding this matter.

1 2. Respondent acknowledges and agrees that this Order is entered into freely
2 and voluntarily and that no promise was made or coercion used to induce such entry.

3 3. By consenting to this Order, Respondent voluntarily relinquishes any rights
4 to a hearing or judicial review in state or federal court on the matters alleged, or to
5 challenge this Order in its entirety as issued by the Board, and waives any other cause of
6 action related thereto or arising from said Order.

7 4. The Order is not effective until approved by the Board and signed by its
8 Executive Director.

9 5. All admissions made by Respondent are solely for final disposition of this
10 matter and any subsequent related administrative proceedings or civil litigation involving
11 the Board and Respondent. Therefore, said admissions by Respondent are not intended
12 or made for any other use, such as in the context of another state or federal government
13 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
14 any other state or federal court.

15 6. Upon signing this agreement, and returning this document (or a copy
16 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the
17 entry of the Order. Respondent may not make any modifications to the document. Any
18 modifications to this original document are ineffective and void unless mutually approved
19 by the parties.

20 7. This Order is a public record that will be publicly disseminated as a formal
21 disciplinary action of the Board and will be reported to the National Practitioner's Data
22 Bank and on the Board's web site as a disciplinary action.

23 8. If any part of the Order is later declared void or otherwise unenforceable, the
24 remainder of the Order in its entirety shall remain in force and effect.

25

1 9. If the Board does not adopt this Order, Respondent will not assert as a
2 defense that the Board's consideration of the Order constitutes bias, prejudice,
3 prejudgment or other similar defense.

4 10. Any violation of this Consent Agreement constitutes unprofessional conduct
5 and may result in disciplinary action. A.R.S. § § 32-2501(21)(dd) ("[v]iolating a formal
6 order, probation agreement or stipulation issued or entered into by the board or its
7 executive director") and 32-2551.

8  DATED: 12.31.09
9 RICK M. OLESINSKI, P.A.

10 EXECUTED COPY of the foregoing mailed
11 this 12th day of July, 2010 to:

12 Paul Giancola
13 Snell & Wilmer, LLP
14 400 E. Van Buren
Phoenix, Arizona 85004-2202

15 ORIGINAL of the foregoing filed
16 this 12th day of July, 2010 with:

17 Arizona Regulatory Board of Physician Assistants
18 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

19 
20 Arizona Regulatory Board
of Physician Assistants Staff